

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Amendment of Sections 74.1231, 74.1232)
74.1233 and 74.1284 of the Commission's)
Rules to allow AM licensees to become)
licensees of FM translators and to use)
them to retransmit their signals as)
fill-in service.)

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: The Commission

**COMMENTS
OF
VERNON H. BAKER, ET AL.**

VERNON H. BAKER, VIRGINIA L. BAKER AND EDWARD A. BAKER
("Baker"), by Counsel, pursuant to *Public Notice DA 98-2527 (released December 10, 1998)*, hereby submits these Comments in the above-captioned rule making proceeding regarding a proposal submitted by The American Community AM Broadcasters Association ("ACAMBA") to permit AM stations to become the owners and operators of FM translators that would re-transmit the AM signal for the purposes of fill-in service. In support hereof, Baker submits the following:

1. Vernon H. Baker, Virginia L. Baker and Edward A. Baker, individually or through numerous corporations, are the owners and operators of the following fifteen (15) AM daytimer stations: WSGH-AM (Lewisville, North Carolina), WNOW-AM (Mint Hill, North Carolina), WAMN-AM (Green Valley, West Virginia), WFTK-AM (Wake Forest, North Carolina), WKNV-AM (Fairlawn,

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Virginia), WBGS-AM (Pt. Pleasant, West Virginia), WOKU-AM (Hurricane, West Virginia), WOKT-AM (Cannonsburg, Kentucky), WCXN-AM (Claremont, North Carolina), WKDI-AM (Denton, Maryland), WKTR-AM (Earlsville, Virginia), WPIN-AM (Dublin, Virginia), WFIC-AM (Collinsville, Virginia), WCBX-AM (Bassett, Virginia) and WKEX-AM (Blacksburg, Virginia).

As the owner and operator of so many AM daytimer radio stations, Baker has experienced first-hand the frustrations and problems of trying to provide adequate radio coverage to the community of license on a full-time basis. Accordingly, hereinbelow Baker provides responsive comments to the series of proposals proffered by ACAMBA.

2. ACAMBA submits that many AM stations are at a competitive disadvantage as the result of weak nighttime signals. While FM and TV stations enjoy the benefit of permissible translator services, AM stations are currently denied such service (except in Alaska). See, ACAMBA petition at page 2.

3. Baker acknowledges that AM daytimer stations are at a competitive disadvantage, and generally cannot provide good nighttime service to their communities of license. Baker believes that AM daytimers should be afforded the opportunity to apply for translator service on FM frequencies to improve their coverage, and that such FM translators should be permitted to operate both during the day and at night with strict simulcasting requirements.¹

4. ACAMBA proposes that FM translator service be permitted for stand alone AM stations only, with authorized AM power not exceeding 2,500

¹ For example, an AM daytimer could apply for an FM translator and simulcast its AM signal full-time *without* the opportunity to provide program origination on the FM translator station at any time.

watts daytime and 500 watts nighttime. *See, ACAMBA petition at pages 4 and 5.*

5. Baker agrees that any use of FM translators by AM broadcasters must be narrowly awarded to only the most deserving AM broadcasters -- namely Class D AM stations. There are several administrative reasons why this is necessary. First, as with any communications service today, there is fierce competition among competing interests for use of frequencies. In this regard, the Commission is faced with some difficult decisions in this proceeding. For example, will the applications by an AM broadcaster for an FM translator station be subject to competing applications by FM broadcasters? If so, will the AM broadcaster be provided a preference? And, since any future proposed use of an FM translator station on a commercial frequency will be subject to an auction, will there be a need for special auction rules for these matters?

6. Baker urges the Commission to adopt a priority scheme for FM translator stations applied for by AM daytimers *vis-a-vis* FM translator applications filed by noncommercial FM broadcasters and commercial broadcasters proposing *other than* fill-in service. First priority should be afforded to AM daytimers operating on clear channels to receive an absolute right to apply for any available FM translator frequency without the risk of a competing application. These applicants would expect to pay for their channels pursuant to the new FCC auction and revenue rules, but there should be no risk of mutual-exclusivity filings. Second priority should be afforded to AM daytimers operating with post-sunset and pre-sunrise authority. These applicants would not necessarily be afforded a right to apply for an FM translator without the risk of competition, but they would receive priority status

(i.e., in the form of a bidding credit) against a non-AM daytimer applicant for an FM translator station. The third priority should be afforded to AM daytimers that currently operate with less than 250 watts at night. Finally, Baker proposes that any AM translator application be afforded absolute priority over any FM translator application filed by an FM station proposing other than fill-in service.

7. **ACAMBA claims that its proposal differs from other recent AM translator proposals in that it proposes these translators to be located anywhere within the AM station's .5 mV/m contour, as opposed to earlier proposals for service anywhere within the 1.0 mV/m contour. ACAMBA claims that the NAB supported the earlier AM translator proposals. See, *ACAMBA petition at page 7*.**

8. If the Commission decides to implement the ACAMBA proposal, Baker believes that it must be as narrow and selective as possible in order to avoid applicant abuse and to maintain a level of credibility for this new service. The use of FM translators by AM broadcasters should generally be to provide nighttime service to the community of license only. Therefore, Baker believes that the usable area in which to locate these FM translator stations should be generally limited to an area within the AM station's daytime city-grade service contour at any optimum location.² However, in special circumstances, the Commission should be able to waive the daytime city-grade contour limitation for site location if the public interest warrants it, or if necessary to permit the use of a uniquely suitable transmitter site.

WHEREFORE, the foregoing premises considered, Baker urges the Commission to implement a more formal notice and comment proceeding with

² Baker believes that AM daytimers should not be required to locate their FM translators on their AM towers.

respect to the ACAMBA proposal.

Respectfully submitted,

VERNON H. BAKER, ET AL.

By: 
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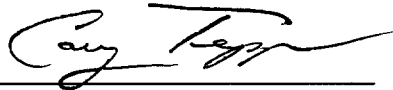
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January 8, 1998

CERTIFICATE OF SERVICE

I, Cary S. Tepper, Esquire, hereby certify that on this 8th day of January, 1999, I have served a copy of the foregoing "**Comments of Vernon H. Baker, et al.**" first-class, postage-prepaid, on the following:

Bryan Smeathers, President
American Community AM Broadcasters Association
One WMTA Drive
P.O. Box 973
Central City, KY 42330

A handwritten signature in cursive script, reading "Cary Tepper", written in dark ink. The signature is fluid and stylized, with a long horizontal flourish extending to the right.

Cary S. Tepper, Esq.